

SPECIAL COUNCIL MEETING
COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP

MARCH 17, 2016

The Special Council Meeting Council-Manager Form of Government Workshop of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Thursday, March 17, 2016 at 10:49 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i (*present at 10:54 a.m.*)
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

Excused: Honorable Ross Kagawa

APPROVAL OF AGENDA.

Councilmember Yukimura moved for approval of the agenda as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 5:0:2 (*Councilmember Kagawa and Councilmember Kuali'i were excused*).

COUNCIL-MANAGER FORM OF GOVERNMENT WORKSHOP:

The Kaua'i County Council will hold a Workshop to discuss revisions to Articles I through XXXII of the Kaua'i County Charter that would result in a new County Charter changing the governmental structure of the County of Kaua'i from the current system to a council-manager form of County government.

Council Chair Rapozo: Okay. I am trying to figure out where we left off from.

Councilmember Yukimura: This was passed out.

Council Chair Rapozo: Peter, this is the newest version I am assuming.

PETER MORIMOTO, Legal Analyst: Correct. There is a two-sheet handout that reflects the discussion that the Council had at the last workshop where it was decided that there would be a seven (7) member council and one (1) mayor, who would be an ex-officio, non-voting member and who would be in charge of the boards and commissions.

Council Chair Rapozo: Okay. Any questions regarding that two-sheet handout?

Councilmember Yukimura: How does this two-sheet handout relate to this big packet that you sent out?

(Councilmember Kualii was noted as present.)

Mr. Morimoto: It is inserted into the draft charter, but I thought I would pull it out separately so that members could take a look at it and decide whether or not that is what they want and how they want the language to be.

Councilmember Yukimura: Does this new packet include only the changes that are required in order to implement a county manager government?

Mr. Morimoto: Right, so I put back in the language about the electric power authority and I also deleted the restriction on zoning by initiative.

Councilmember Yukimura: Okay, so the only changes that are in here are those that are necessary to the county manager form of government?

Mr. Morimoto: Yes.

Councilmember Yukimura: Thank you.

Mr. Morimoto: Well, to the extent that it reflects the previous discussions of the Council.

Councilmember Yukimura: Right. Are they ramseyered? Do we know what those changes are?

Mr. Morimoto: No, they are not ramseyered. It would be difficult to ramseyer, mainly because this is basically an entirely new charter.

Councilmember Yukimura: Right.

Mr. Morimoto: Some of the language comes from the model city charter that the International City/County Management Association (ICMA) recommended and some of it comes from our old charter or our current charter.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Is the memorandum part of the submission?

Council Chair Rapozo: I am sorry. You were not here when I passed it out. The memorandum is basically from Mr. Lewis. He sent me an E-mail.

Councilmember Chock: Okay.

Council Chair Rapozo: It is his...you know what I am trying to say.

Councilmember Chock: Yes.

Councilmember Yukimura: What date is this?

Council Chair Rapozo: I just got it last night in an E-mail, so I had Staff make copies.

Councilmember Hooser: I need a copy.

Councilmember Kaneshiro: Me too.

Council Chair Rapozo: I am sorry. It is here. Let me give you folks a copy.

Councilmember Yukimura: So the date of this communication is March 16th?

Council Chair Rapozo: Yes. It was an E-mail.

Councilmember Yukimura: Okay.

Councilmember Chock: Chair, I was just going to report on what was asked, and basically I am reporting that I do not have anything to report because I made two (2) inquiries so far, which I actually made more, but I have only heard back from two (2) of the council managers, one from Illinois where I thought had the structure of a mayor with veto power and I was incorrect. So I actually reached out to two (2) and they said they did not have that structure where a mayor had veto power or any separate power. In those instances, the ones they knew of were always part of the structure of the Council. There is that question still out there that I am waiting on two (2) more resources from, as well as who takes over if the mayor is absent. That question is still pending. I have not been able to get any headway yet.

Council Chair Rapozo: That is one of the concerns and I think Mr. Lewis raised it, but I also was trying to, in my own research, find a county manager system that had a member with veto power and I cannot find that. I am not sure if ICMA has any.

Councilmember Chock: I have asked them and they are still looking as well. They said only two (2) percent that they know of, so they must have some record that exists.

Council Chair Rapozo: Yes. I am not sure...now it leads me to this discussion that we must have. I know we talked about the eight (8) person body, one (1) mayor and seven (7) councilmembers, with the mayor having the veto power. I thought about this and after I met with Mr. Lewis and the "four (4) amigos," I went home and I started to do some research and try to figure out where does that happen? Then it dawned on me that this is not a hybrid. We are not trying to find a hybrid where we are going to try to keep what we have. This is a complete departure of what system we have today. Then I read Carl Imperato's testimony, which really clarified it for me. It says, "This absurd situation is an unavoidable consequence of the current design and structure of Kaua'i's county government. The only credible way to end this problem is to make a single entity – the County Council, to whom a county manager would be responsible – clearly and completely accountable for county government's performance." That is what a county manager's system does. So the people elect the council, the council hires the county manager, and that body runs the government. There is no more "other side." That is what the people will vote for. Do they want that or do they want the two-sided government? I think that is what we just have to accept. If you think that is the way to go, you vote for it. I think if we start to create this hybrid, then we would create a problem. This makes it a lot simpler for me, anyway, to just say, "Okay, this is what it is going to be," and the public is going to have that choice. Are you going to put the sole authority and power in the council or do you want the current system where you have the separation of powers and you have veto power through the Administration? That is kind of the discussion I want to have today because I want to clear that up. I know we talked about the mayor having the veto power. Councilmember Yukimura.

Councilmember Yukimura: I, too, have been thinking about it. It feels really awkward to me. I wonder if there is any jurisdiction where there is a veto power. If so, where, because it seems like Councilmember Chock has been having a hard time finding one that is actually...

Council Chair Rapozo: Apparently, he is saying there is two percent (2%) of ICMA...

Councilmember Yukimura: That is telling, too, if it is only a small percentage. We really have to dig deep about how it is working and why only a small percentage has adopted it. Councilmember Chock, have you found any jurisdiction yet that we are able to talk to?

Councilmember Chock: Yes, I went about it the wrong way because I had in my notes that I had come across a manager with that scenario, but after speaking with him this past week, it came to light that I was incorrect. So I started going down the list of all the people that I had met because I know it came from somewhere and I still have not heard back from any of them. I am still working on it. I have this out to ICMA about who is in that two percent (2%) so that I can jump on it. I am still investigating.

Councilmember Yukimura: Okay.

Council Chair Rapozo: I kind of want to have that discussion as to...again, I know we discussed it at the last workshop. Councilmember Hooser's suggestion made a whole lot of sense. After thinking about it and trying to find somebody who has that type of system...I could not find it. I think Carl's testimony really struck home for me. It is different. We cannot try to tell the people that it is not that different, and that it is almost the same—I have been saying that, "No, it is just like bringing the Mayor over here," but it is not because you are giving up that veto power; the people are giving up that entity that has the veto power. You are putting all of that trust in the County Council and whether the people want that or not, that is not for me to say. After thinking about it, I am feeling much more comfortable with a six (6) member council, a mayor with no veto power, and the council would select the chair. That is kind of where I am at today. Councilmember Yukimura.

Councilmember Yukimura: I think we need to think about what is the purpose of the veto. It is seen as a check on the council by someone who is in charge and responsible for the administration of the County. The check was to make sure that the Council would not do something really terrible. Are there other checks on a council in the council manager form of government that can give protection against a drastically bad decision? That is the question.

Council Chair Rapozo: And does not exist? Basically, the four (4) votes would be the veto basically.

Councilmember Yukimura: Well, to me, and that goes to best practices, it is about a council that is not in conflict of interest, so it has to have strong conflict of interest law governing the council process and the councilmembers. Then you can have recall or referendum of council votes. Those are all checks on the council actions. I am sure there are others if somebody starts thinking about it.

Councilmember Chock: The big emphasis that I have...sorry, I did not ask for permission to speak...

Council Chair Rapozo: No, this is a workshop.

Councilmember Chock: The big emphasis was emphasis on roles, a clear guideline of roles and responsibilities that delineated the powers. So if there was overstep, the mechanism for the manager would be to file a complaint against the member or members...councilmembers...

Councilmember Yukimura: A complaint to whom?

Council Chair Rapozo: To the council. One of the sessions in the ICMA, and I apologize for interrupting, but the county manager was talking about a situation where they had one (1) councilmember that had a problem with retaining executive session discussions and that she would go to the bars and get drunk, and "loose lips sink ships." She, where the county manager was a woman, filed a complaint with the council who ended up suspending that councilmember.

Councilmember Yukimura: Well, that is in the case of one (1) person being out of order, so to speak. You can also have a majority of the Council being out of order. The check by the mayor is a check on the council acting as a body. The veto power is when four (4) councilmembers or the majority of the council has passed something and the mayor vetoes. I think those protections against individual misbehavior, malperformance, or whatever you want to call it is important, but the veto power is actually wielded against a council action that has been taken by the majority.

Council Chair Rapozo: Right, but the fact that the majority of the council passed something does not make that a bad or illegal act. That is what you get with this system. It is a dice roll that if you get a good council that is responsive to the community and to the public, then the system will work. If you do not...again, the majority of the council will dictate the direction of the County.

Councilmember Chock: I think it also raises the bar on community participation in electing people that they want to make sure they are being represented well. That is one of the outcomes that were discussed in the workshop.

Councilmember Yukimura: Well, how do you do that?

Council Chair Rapozo: I think the whole campaigns would be different. Right now, you have the mayor who campaigns and says what he wants to do, then you have the council to go out and they say what they are going to do, and the council can often criticize the administration of past acts and say, "Hey, the mayor does this; the administration this. I want to change that." Now, the monkey is on the council's back, so you are going to be elected, and it is all the council; it is all of the councils. Councilmember Yukimura, I agree with you and I think that is where the people is going to have a difficult time, in my opinion, understanding or accepting this type of government. I think a lot of the people do not want to see a council with that total power. That is what this system brings. If you do not like the system then you do not support it, but it works in many jurisdictions.

Councilmember Yukimura: I am thinking out loud here and I think it comes to the point about roles people play, but one of the checks on the council is that it cannot interfere with administrative and executive functions, and then the check on the mayor or the administrator is that they are not elected so that they do not make political appointments; as long as the council does not insist on political appointments, which can happen very easily. I think the worst case scenarios about council manager forms of government is when the council is run by a really bad majority that hires a city manager that just does its bidding.

Council Chair Rapozo: Again, that is the risk and I think that is why a lot of the people are uncomfortable because they do not have that say in who becomes that administrator or the executive, which is a valid concern.

Councilmember Yukimura: The other plus is that the council, together with the mayor, would learn and create common goals and a common plan; you are

not having two (2) plans or two (2) visions, or just one (1) mayor going off and doing this thing without the advice and counsel of his colleagues.

Council Chair Rapozo: For example, yesterday, and I bring it up because I was shocked—probably as shocked as some of you—with the Fire Department's move to remove a Deputy and replace that with an Assistant Chief and add another Assistant Battalion Chief. Maybe they spoke to you folks or with Councilmember Hooser, the Public Safety Chair, but I was shocked to hear that, and those are the kinds of things that would not happen in a county manager system. That just simply would not happen.

Councilmember Yukimura: Right.

Council Chair Rapozo: There are pros and cons and I think at the end of the day, we have to weigh it and see what we think is better.

Councilmember Yukimura: Well, the check on that kind of action is that if the council is together, they can just remove the budget line items.

Council Chair Rapozo: Well, in that case, I applaud the mayor...I cannot say that, but anyway, for killing that proposal and it is coming over with the Deputy and not with what the Fire Chief is asking in that case. At the end of the day, the Council still has the authority to do what they want. We would have at least heard about that. I did not know about that. I was shocked yesterday. The fact that could even happen without the Council's knowledge or approval is something. Anyway, that is the dilemma we are in today as we go through this, the structure of the council. If you folks want to revisit the eight (8) versus the seven (7), I think that is a critical part of this, and the veto power. As it stands today, we are at an eight (8) man or eight (8) person council...I mean a seven (7) member council and one (1) mayor with veto power, so a total of eight (8).

Councilmember Chock: Chair, I have been kind of on the track of trying to collaborate on this and trying to get the best outcome so we can move it forward. It is my interest in getting as close to what we have statistically seen has been successful in this system and I do not think that the direction that we are headed speaks to that. That is just what I learned so far. I would prefer that we try and stay as close as possible to what best practice is instead. That is my interest.

Council Chair Rapozo: Okay.

Councilmember Yukimura: I feel quite uncomfortable with it, too, because I just do not know how it would work. You have an eighth member who is not really a member who does not vote regularly, and then just comes in when...

Council Chair Rapozo: It sounded good at the last workshop. The fact that you had that oversight by a person...again, I am trying to validate that and I am having a rough time. Councilmember Hooser, I know it was your proposal.

Councilmember Hooser: If I look at the entire package, we will have a difficult time supporting it without more checks and balances to have a four (4) person council run the whole show. I am not comfortable with that for a variety of reasons like the minority voice. We are all at-large and the minority voice to get shut out...that four (4) people could pass policy, not just hiring and firing the county manager, but could pass policy that there is no check and balance on that. They control the budget, so there is no check and balance on that. So we might as well have a four (4) person council. If it was a larger council with nine (9) members, then I think I would feel more comfortable. Again, it goes to districts and term limits; four (4) year terms, two (2) year terms, staggered—it is a complicated thing. Right now, I am not comfortable with it and I do not know if everybody else is comfortable either. I do not want it to be, “Councilmember Hooser is not comfortable with it, so it is not going to happen.”

Council Chair Rapozo: No, the beautiful thing about this process is this is the first time, so we do not know what we do not know. I guess I agree with you in a sense that I am not comfortable with the six (6) plus (1). I think that is what Councilmember Yukimura was addressing earlier, that there has to be mechanisms in place that prevent a rogue council or a majority to just go crazy. Councilmember Yukimura.

Councilmember Yukimura: Councilmember Hooser, what do you think about a supermajority being required for all the major decisions of the council? Choosing a manager is already a supermajority.

Council Chair Rapozo: I think we agreed supermajority.

Councilmember Yukimura: Right, and passing the rules of operation of the council, I know we learned that one of the counties without a council manager system has...I think you brought it up...it requires a supermajority to pass the rules, which effect the decision-making of the council. Maybe the budget needs to be by a supermajority again, which requires more of a consensus than a simple majority.

Council Chair Rapozo: What happens if we do not get it? What if you do not get five (5) votes to pass the budget?

Councilmember Yukimura: Well...

Council Chair Rapozo: Will it automatically pass?

Councilmember Yukimura: Yes, the manager's budget would pass, just like under present circumstances, the mayor's budget passes.

Councilmember Chock: I did get a response that in most organizations, there was a vice mayor or what they are calling a “mayor pro tempore,” who is often a member of the council in most cases, but without the veto situation.

Council Chair Rapozo: Yes.

Councilmember Yukimura: That was another issue that we discussed about who takes over, whether it is ceremonial or other duties, if the mayor is absent for one (1) day or for one (1) month from sickness. I think you have to have a vice person or a deputy, but I think that is almost separate from this idea of mayor veto or not.

Council Chair Rapozo: Yes. The other thing is that everybody would have a two (2) year term. I think we talked about the mayor having a four (4) year term.

Councilmember Yukimura: I thought everybody would have a four (4) year term.

Council Chair Rapozo: Again, I do not think we can change the...

Councilmember Yukimura: Yes, we can...

Council Chair Rapozo: I mean we can change anything we want, but as it relates to the structure of government, I think we should stick to just the changing structure of government in the charter.

Councilmember Yukimura: But the Council is such a key part of this council manager form of government. We should make it best practice.

Council Chair Rapozo: Again, I am just trying to figure out what will give it the best advantage to pass.

Councilmember Yukimura: No, we should think of what is going to be...like you were saying...you might put in the veto to give it a chance to pass—no, you put what is the best functioning arrangement so people have a real clear choice. If they want this, then they want this. They cannot have their cake and eat it, too. If they want it to function well, there is a name...it is called “fidelity” in programs. You might know that, Councilmember Kuali’i. Like the Botvin LifeSkills Program, they say if you want the results of the program you have to follow the program well to get the results. It is called fidelity to the program. You have to have fidelity to the council manager form of government in order for it to work well.

Council Chair Rapozo: Is the best practice the four (4) years?

Councilmember Yukimura: Yes.

Councilmember Chock: Yes.

Councilmember Yukimura: We all know that is...

Council Chair Rapozo: I agree. I do not have a problem. Peter, how do we draft it?

Councilmember Yukimura: Just make council terms four (4) years.

Council Chair Rapozo: Where is it today? Two (2) years?

Councilmember Yukimura: No, we made it four (4).

Council Chair Rapozo: Did we?

Mr. Morimoto: Yes. That decision was made not at the last meeting, but the meeting before that.

Council Chair Rapozo: Okay.

Councilmember Yukimura: It was because Councilmember Chock told us it was best practice and I think especially if the council is going to be in the role it is, we want them to be more long-term thinking than short-term thinking. You are running for election every other year. If you want to promote short-term thinking, that is the way to do it.

Council Chair Rapozo: Okay. That is good.

Councilmember Hooser: I have one more point. I think Councilmember Kualii brought this up last time that the process that we are going through is an important process, but at the end of the day, someone needs to present a bill and then we get public input. My reservations could change, depending on public input and other things as we learn. I do not want to just make all of the decisions right here and there. The process is just kind of awkward.

Council Chair Rapozo: Like I told my friends, the fact that I am doing this, and I will probably be the one introducing the bill or the charter amendment resolution, does not necessarily mean I will support it. Again, there are so many moving parts that if something in here does not make me feel comfortable then obviously I will not support it. What this workshop is for is to provide myself and the Staff a starting point so that I can actually put that together.

Councilmember Hooser: For example, this particular point, even if there is no consensus among four (4) votes needed, I would think you take the best shots you have, plug it in, and then move forward with the other parts. That would be a suggestion, rather than to stop the process here because we cannot all agree on one point.

Council Chair Rapozo: That is why I only really wanted to touch on the major structural points so we can put it in a resolution and I think that would be the composition of the council and of course the duties and responsibilities of the manager, the mayor, and the council, and terms of office. I think Peter has done a good job massaging this old charter and morphing it into this proposed new charter,

but at some point we are going to have to do a resolution. I am hoping that if we can get the major components out of the way—like you said, Councilmember Hooser, I do not need four (4) votes to put it in. Basically, what I am hearing from you folks, maybe the six (6) plus one (1)...at the end of the day, if the mechanisms are not in place to give you the comfort that the safeguards are in place, then obviously, you will not support the resolution and probably neither will I. I think those are kind of the key points. We have the duties and responsibilities. If you take a look at what Peter has put out...the other thing was the qualifications. That is another big item that I thought really does not touch on the educational requirement that I expected.

Councilmember Yukimura: So is it going to be six (6) and one (1)?

Council Chair Rapozo: At this point, it is probably going to be me submitting the resolution, but that is what I am looking at and that will be subject to an amendment when it hits the floor.

Councilmember Yukimura: Okay, so we are on the next subject?

Council Chair Rapozo: I am just thinking out loud right now because I heard Councilmember Kualii's concern at the last couple of workshops and I heard Councilmember Hooser's one right now. I think that is probably the best direction, to fill in the blanks so I can get Peter to draft the resolution and we can have the resolution introduced. That is probably going to be the best way; otherwise we will have workshops forever.

Councilmember Yukimura: So is somebody going to look at all of the pieces and make sure that they are coordinated?

Council Chair Rapozo: Yes.

Councilmember Yukimura: Okay, so what are we talking about now?

Council Chair Rapozo: The county manager, if you look at page number 13, article 6 on the county manager, there are a couple of things. "The council by a vote of five (5) or more of its members shall appoint a county manager for an indefinite term of and fix the manager's compensation." I am not sure about "indefinite term." That is fine for the discussion. "...shall be appointed solely on the basis of education and experience in the accepted competencies and practices of local government management. The manager need not be a resident of the county or state at the time of appointment, but may reside outside the county while in office only with the approval of the council." I am not sure if that is a best practice.

Councilmember Yukimura: Take that out.

Council Chair Rapozo: Again, I am not sure if this was because we will probably need an interim that may not be a resident.

Councilmember Kualii: Well, it probably was in lands where the line of the county was...you still live right there, not on an island.

Councilmember Yukimura: I think we should take the last line out.

Council Chair Rapozo: Okay.

Councilmember Yukimura: "Need not be a resident of the county or state at the time of appointment"—I think that is correct. "May reside outside of the county"—are you kidding?

Council Chair Rapozo: How about if we say, "The manager need not be a resident of the county or state at the time of the appointment, but shall establish residence in the County of Kaua'i within ninety (90) days."

Councilmember Kualii: "By the start of the job."

Council Chair Rapozo: Well, no, his appointment is the start of the job. So I would say that we give them three (3) months to settle in.

Councilmember Kaneshiro: It is just getting a driver's license and finding a place here.

Council Chair Rapozo: Yes. Let us just say it is from O'ahu. We have had a bunch of County workers across the street that commute, which I do not really dig. I do not think that is cool, but I think you give them...from the time of appointment obviously, you are not going to move to Kaua'i to apply for this job. He will come here and he gets appointed and he will have sixty (60) or ninety (90) days maximum to establish a residence. Is it sixty (60) or ninety (90)? Ninety (90) days? Peter, did you get that?

Mr. Morimoto: Yes.

Council Chair Rapozo: Okay, "...shall establish residency within the County of Kaua'i within ninety (90) days." I am trying to find the requirements. I thought we had requirements in here. The qualifications? We need to add the qualifications. I would suggest we use the best practice...I swear I heard that...was that in an earlier draft, Peter?

Mr. Morimoto: No, this is from the model...

Council Chair Rapozo: This is the model? There are no qualifications?

Mr. Morimoto: This is all we have in the model report.

Council Chair Rapozo: I could have sworn it said...

Councilmember Yukimura: Well, we can make it up.

Council Chair Rapozo: Yes, we can.

Councilmember Yukimura: But we should probably check whatever our words are.

Council Chair Rapozo: I know I read it...where did I see it...Masters or Bachelors in Public Administration, "x" amount of years...that definitely has to be added.

Councilmember Yukimura: Well, Mr. Mora's PowerPoint says, "Manager appointed based on professional experience, managerial qualifications, and education. Increasingly, professional managers possess a Masters Degree or higher, sixty-six percent (66%) in 2012, most often in Public Administration." I think we have to have some degree requirements.

Council Chair Rapozo: Absolutely. Councilmember Chock, can you work on that and provide that to Peter?

Councilmember Chock: Yes.

Council Chair Rapozo: We can massage that. I do not think there is any objection to putting in a degree requirement. I do not know if it would be a Masters, but at least a Bachelors in Public Administration with so many years of experience.

Councilmember Yukimura: I think Masters is needed.

Council Chair Rapozo: Masters?

Councilmember Chock: The way they outlined it was if you get a Bachelors, you have more years of experience. So there was a couple of options and I will provide all three (3) of those.

Council Chair Rapozo: Okay. Give that to Peter and he can put that in.

Councilmember Yukimura: And we will get to see it and talk about it at some point?

Council Chair Rapozo: My plan is if we can get through the core functions or the core parts of this today, then I will have Peter draft up a new version the additions that we have agreed on or at least discussed, have one more workshop which will be the last workshop, and then we can prepare the resolution and get that on the agenda so we can start that process.

Councilmember Yukimura: The Hawai'i Revised Statutes (HRS) sections that have to be changed or whatever, we need to have a discussion on that...

Council Chair Rapozo: I am not sure if any HRS section will have to be changed because we still do not have a mayor. I do not believe the HRS will have to change.

Councilmember Yukimura: What about Civil Defense and chain of command?

Mr. Morimoto: With regard to Civil Defense, the HRS allows the mayor to delegate his duties that are accorded to him under the HRS to a third party.

Councilmember Yukimura: Well, we better specify who that third party is going to be.

Council Chair Rapozo: It will be whoever the mayor determines.

Councilmember Yukimura: No, it will be the manager I think. This is county-wide authority. You are not just going to run Civil Defense. You are going to run garbage pickup and all of this emergency response that is...it has to be the manager and you just do not want any question when the emergency hits who it is.

Council Chair Rapozo: But who is to say that the manager is experienced in that?

Councilmember Yukimura: No, the manager is running the county. In the chain of command, the mayor is always the "Civil Defense Deputy," so you want to make sure now that the mayor is on this side that it is going to be the county manager, because it cannot be anyone else, in my opinion, and you do not want it to be a question the night before a hurricane hits.

Council Chair Rapozo: I do not know...I kind of like the mayor...then the council would determine what action needs to be taken.
Councilmember Hooser.

Councilmember Yukimura: No, we cannot do it that way.

Councilmember Hooser: Any HRS change is a deal breaker.

Council Chair Rapozo: Yes.

Councilmember Hooser: Number one, there is no way we can do it in time for the ballot.

Council Chair Rapozo: When the final resolution comes out, obviously if there is a conflict with HRS then it is done.

Councilmember Yukimura: Well, you can write it so that it says "the mayor shall appoint the county manager to be..." in the charter itself, that makes it real clear and does not conflict with HRS. It is a thing that has to be very clearly

stated in the documents; otherwise you cannot have a council making decisions on an emergency basis.

Councilmember Kualii: But does the manager not serve at the will of the council anyways?

Council Chair Rapozo: Exactly, that is my point.

Councilmember Kualii: So the council, with the mayor as chair, would direct him to do just that without having to write it in or to tie the mayor and the chair's hands.

Councilmember Yukimura: Well, I just raise it because it is something that needs to be clearly addressed.

Council Chair Rapozo: The other issue is on Section 2.12, page 5, (B), the performance audit. This is on the council duties, obligations, and authorities. They talk about the performance audit as we do now. Is the Auditor in here, Peter?

Mr. Morimoto: Yes.

Council Chair Rapozo: Okay. Thank you.

Councilmember Yukimura: What page is it?

Mr. Morimoto: At the very end, beginning on page...

Council Chair Rapozo: Page number 68. Okay. That basically stays the same as how we have it right now, that the council still has the ability to audit. Councilmember Chock will work on the educational qualifications.

Councilmember Chock: It is in the presentation. I have an update if you folks are interesting in hearing this.

Council Chair Rapozo: Yes we are.

Councilmember Chock: Let me just read this verbatim. "On our survey, we do not specifically ask whether the mayor can or cannot vote on council, instead we ask the question as follows: under what circumstances does the chief elected official have the authority to vote in council meetings? Out of three thousand three hundred seventy-two (3,372) jurisdictions that responded, fifty-six percent (56%) said the mayor could vote on all issues. Thirty-five percent (35%) indicated that the mayor could vote only to break a tie; seven percent (7%) said the mayor could never vote; and two percent (2%) indicated other." It is a little bit misleading to say two percent (2%) is veto, so what they have done is they have gone a little bit further into their response here and have come up with a veto, which is actually out of the same sample...let me see if I can find it here...under the same sample, twenty-seven percent (27%) have veto.

Councilmember Yukimura: How many?

Councilmember Chock: Twenty-seven percent (27%).

Councilmember Yukimura: Twenty-seven percent (27%).

Councilmember Chock: Yes.

Councilmember Yukimura: So the mayor is a member of the council?

Councilmember Chock: Yes.

Councilmember Yukimura: So does not vote normally, but only votes to break a tie.

Councilmember Chock: Yes.

Councilmember Yukimura: That is not a veto; that is just a tiebreaking function.

Councilmember Chock: Yes, that is different from what I said. I was talking about the veto. There is a seven percent (7%) out of the sample that had a...let me look at it again before I get confused again...thirty-five percent (35%) indicated that the mayor could vote only to break a tie, seven percent (7%) said the mayor could never vote, and two percent (2%) indicated others.

Councilmember Yukimura: So in the case where the mayor breaks a tie, you have to have an even number of councilmembers.

Councilmember Chock: Let me read this, too: "The 2011 Municipal Form of Government Survey shows that nine hundred (900) communities that responded grant the chief elected official with veto power: twenty-seven percent (27%) of the survey respondents; that is nine hundred (900). The number of communities that responded that their chief elected official does not have veto authority was two thousand four hundred fourteen (2,414), so same sample of two thousand (2,000) again.

Councilmember Kaneshiro: I guess it is hard because it is hard to understand and what the structure is that gave the mayor the veto power.

Councilmember Yukimura: Yes, or what the rationale is that they created it that way.

Councilmember Chock: Yes.

Councilmember Yukimura: And how it is working. That is the other thing.

Councilmember Kaneshiro: Unless they can get in touch with some of the counties that have the veto power.

Councilmember Chock: I have asked them to get deeper into it.

Councilmember Yukimura: Yes, it would be interesting to see how big they are, whether they are a small town with five hundred (500) people for instance.

Councilmember Hooser: And how big the councils are.

Councilmember Yukimura: Yes.

Councilmember Chock: It is still a smaller percentage, but not as small as we had thought.

Council Chair Rapozo: Okay. Let us go on to the...we probably talked about it already, but the appointment of the various department heads. Are we in agreement that the county manager should be the appointing authority on all department heads?

Councilmember Yukimura: We preliminarily decided yes.

Council Chair Rapozo: I believe we did. Peter is taking notes and working on this draft resolution so we can move ahead. As far as the appointments on all the department heads like Police, Fire, and everyone, that is what the model...

Councilmember Yukimura: It is this thing about accountability. If we did not appoint the managing director, do you think the managing director would heed the needs and concerns of the council? If you are not appointed by that person, it is really hard to direct them and work with them. The managing director is ultimately responsible for the performance of all of these departments, so you would have to give the managing director the line of authority and the line of accountability.

Council Chair Rapozo: I agree. I guess I just wanted to clarify all the departments, except for the Department of Water. How is your position on the Department of Water?

Councilmember Yukimura: That comes up when we take on whether the Department of Water should be part of the County or not.

Council Chair Rapozo: That is what we are talking about.

Councilmember Yukimura: No, we cannot take on that question here. That is a really big separate question. People will be voting for all kinds of different reasons, not because of the council-manager form of government.

Council Chair Rapozo: Okay, so all appointments except the Department of Water.

Councilmember Yukimura: The Department of Water stays semiautonomous.

Council Chair Rapozo: Okay. Did you get that, Peter? All department heads. What about commissions? All commissions appointed by the county manager with approval of the council are what we had discussed and approved or agreed to tentatively.

Councilmember Hooser: Are there any, except the Commission on the Status of Women...are there any commissions that are less managerial in nature? I do not know what the right word is. More political in nature?

Council Chair Rapozo: Political in nature, yes.

Councilmember Hooser: That might be appropriate for the council to honor let us say women in that situation or other leaders, *kūpuna* council or something. I am just thinking out loud.

Council Chair Rapozo: So you are suggesting that the council have the ability to appoint for a certain commission?

Councilmember Hooser: I am just raising the question on whether or not there are certain commissions where it is more of an honoring kind of ceremonial type of commission. I do not know if there is or not.

Mr. Morimoto: For clarification purposes, previously the council seemed to decide that they wanted the mayor to appoint the boards and commissions. For that reason, and this is another thing, I took out the section about the Boards and Commissions Manager from the charter, so we are going to go back to having the manager?

Council Chair Rapozo: Yes, I think because we talked about the "eighth" as being the mayor that now we are looking for duties, but I would suggest that we just keep it that way. The charter only identifies certain commissions, right? Like Planning, Police, Fire, and Civil Defense. But the Status on Women is not in the charter, right?

Mr. Morimoto: No, it is not.

Council Chair Rapozo: So as far as the charter is concerned, I think we are good on that, Councilmember Hooser, just on the actual functioning. The other ones are set up by ordinance, so the council would be the ones to do that.

Councilmember Hooser: Okay.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Yes, I was going to say similarly that we have the power and we can create in our rules, we already have advisory committees that we can create so they advise the council. We could probably even do our own boards and commissions, except that they would be of a very different nature. The ones in the charter are part of the Administration because they do permits, handle complaints against the Kaua'i Police Department for example, and the Board of Water Supply makes actual managerial decisions. They are really of the nature of administrative.

Council Chair Rapozo: Okay, we will just make that change, Peter. Let us go back to where the charter commissions will be appointed by the manager with the approval of the majority of the council.

Mr. Morimoto: So the manager will appoint the boards and commissions members with the consent of the council.

Council Chair Rapozo: Yes. If anybody has objections, concerns, or questions, just interrupt. We are just trying to get through this as quickly as we can on the big structural changes. Being that the terms would all be four (4) years, the council and the mayor would be four (4) years, so then the recall provision will apply so that will remain. Okay, so the council will be six (6) members and the mayor would be a separate election, correct? So whoever wants to be the mayor would run for mayor. Would the council select the chair or would the mayor preside as the chair? That is the question. What is the model? It is pretty split, right?

Councilmember Chock: Yes.

Council Chair Rapozo: What are your folks' thoughts on that? Should the mayor automatically be the chair or should the mayor run for mayor, get elected as the mayor, sits as a member of the council, but should the council, seven (7) members including the mayor, select the chair? What do you folks think?

Councilmember Chock: I am going based on what I have heard from the community.

Council Chair Rapozo: You are our resident expert right now, so whatever you say carries a lot of weight.

Councilmember Chock: Again, it is not so much the ICMA, because you are right, it is kind of split in terms of structure, but I think what I strongly heard is that people want to elect their mayor because they want to have the mayor have that oversight. That would mean that they would serve as the chair in my opinion.

Council Chair Rapozo: To me, that makes sense. I like that better. You run for mayor—the public will be voting not just for a ceremonial mayor, you would be voting for the chair of the council. That is just my opinion as well.

Councilmember Hooser: It just gets complicated. So the veto thing is still...

Councilmember Chock: It is option "A" or "B" I think.

Councilmember Hooser: Right. So if you have veto then you would not be one of the...

Council Chair Rapozo: Correct.

Councilmember Hooser: Because it does not make sense because whatever you say goes.

Council Chair Rapozo: Right.

Councilmember Hooser: Okay.

Council Chair Rapozo: Again, the resolution will be drafted and then at then point, by then hopefully, we will have another workshop and Councilmember Chock will look more into this veto power issue and try to find organizations that have that. Again, if you are not comfortable with the way it is then you are just not going to support it. That is the beauty of a charter amendment needing five (5) votes. You need to have a good product before it goes to the voters. At this point, I am inclined, unless someone else is going to be jumping in and doing this resolution, but I assume it is going to be me and at this point I am looking at the six (6) plus one (1) and looking at the mayor being separately elected and being the chair. Councilmember Yukimura.

Councilmember Yukimura: I had offered to do it, too, and have been sending some questions to Peter, but I would not mind working with you on it.

Council Chair Rapozo: That is fine. Good, then you and I can take the hits together.

Councilmember Yukimura: Yes. That would be a new thing.

Council Chair Rapozo: We can co-introduce, but we have to agree first, Councilmember Yukimura.

Councilmember Yukimura: That is the challenge.

Council Chair Rapozo: Just think of it this way, we are putting out a working document that is going to be worked on and if we cannot reach a consensus, then it does not go.

Councilmember Yukimura: Yes.

Council Chair Rapozo: I think we can get to a point where the people will select and be able to choose.

Councilmember Yukimura: On this mayor thing, I am thinking it is cleaner if the elected mayor chairs the council.

Council Chair Rapozo: I agree. I just think it makes sense.

Councilmember Yukimura: Then you are pretty much giving up the veto, right?

Council Chair Rapozo: Yes.

Councilmember Yukimura: There is not going to be a veto. I think we just need to think about those other checks on performance.

Council Chair Rapozo: That is where you can help me, Councilmember Yukimura, because you have a lot more knowledge in your head than I do about the internal structure of government on both sides. So you can pretty much figure out...I do not know offhand, aside from...I really do not know. I think we talked about the conflict, but that is already in place.

Councilmember Yukimura: The what?

Council Chair Rapozo: The potential conflicts of interests. That is already there. Those will not change. Ethics will not change. It is how you protect the people when you have that crazy rogue Council.

Councilmember Yukimura: Again, I have to say here that districting will really affect the decision-making process because if councilmembers have allegiances to different constituencies, you will see all kinds of shenanigans going on and the merit of the issue will not be addressed because it is just like "if I scratch your back, then you scratch mine, and we both get what we want."

Council Chair Rapozo: Like the Legislature.

Councilmember Yukimura: Exactly.

Councilmember Kualii: It is democracy in action.

Councilmember Yukimura: No, it is not.

Council Chair Rapozo: Unfortunately, it is.

Councilmember Kualii: It is.

Councilmember Yukimura: No, but the thing is the arrangement we have here, we are all accountable to the same people.

Council Chair Rapozo: I agree, Councilmember Yukimura.

Councilmember Yukimura: We really are and it makes a difference.

Councilmember Kualii: But districting does not have to be only the people from your district vote for you and districting does not have to be the majority. Districting can be three (3) out of seven (7), so you will still have four (4) at-large and the three (3) can be aligned with the legislative districts that currently exist. While they may have to come from that area, the whole island could still vote for them. As long as everybody is voting for everybody, everybody is still accountable to everybody.

Councilmember Yukimura: That is correct. If you set it up where everybody is voting for even people in the districts.

Council Chair Rapozo: That is not how it is being set up.

Councilmember Kualii: Who is setting it up?

Council Chair Rapozo: The Charter Review Commission.

Councilmember Kualii: So what are we going to set up as a part of our proposal? We are saying four (4) year terms.

Councilmember Yukimura: Well, I think that is why one or the other... you cannot have them both on the ballot. It will be extremely confusing.

Council Chair Rapozo: The County Attorney has asked for an extension of time and I did not get back to Matt, but obviously that is a lot that we asked them to do.

Councilmember Yukimura: Yes. It is so important how districting is set up.

Council Chair Rapozo: That is going to play a role, too.

Councilmember Kualii: It is a role that we should take part in. In order for this to all work, just like how you are saying best practice is four (4) year terms, while if best practice is no districts, but we still want to accommodate the public that is saying they do want districts, then we want to make the best form of districts like what we just talked about and not necessarily what is coming from the commission. At some point, there has to be communication between us and somebody has to defer to somebody on behalf of the citizens.

Councilmember Yukimura: Well, the thing is what the public wants depends on how the public understands the issues and I do not even think we have had any discussion on that. People think that it is districting and they will have more power of vote, but they will actually have less in a five (5) to two (2) situation because they will only be able to vote for three (3) of the councilmembers, whereas now they are voting for seven (7).

Council Chair Rapozo: This proposal addresses that to me. I think it is an opinion, but the best practice for me is at-large and that is what this addresses. Districting has been on the ballot for I do not know how many times now, and it has failed. I think the public has spoken enough times. Again, I believe and maybe the four (4) year term is not as bad because people can probably deal with that a lot better than districting in this proposal...

Councilmember Kualii: But with districting, you could also have two (2) and four (4) year terms.

Councilmember Yukimura: That would get really complicated.

Council Chair Rapozo: Yes.

Councilmember Kualii: But your whole concern about staggered terms is to not have it all turn over at the same time.

Council Chair Rapozo: Councilmember Hooser, I saw your hand go up a little bit.

Councilmember Hooser: I was going to say that the whole districting debate is debatable and I differ in my opinions as to the right model for the County and I believe that some form of districting would be better where people who live in that district vote for people in that district. Then you would have like a four (4) to three (3), strictly by district, not the at-large...not the Maui model...but really by district and three (3) at-large or something like that. I just want to (inaudible) it out because that perspective was not expressed. In some ways, it is a check for...

Council Chair Rapozo: For Lihue people or Kapa'a people.

Councilmember Hooser: Yes. This is not the place to debate that.

Council Chair Rapozo: I can make an argument on both sides of that issue. I could make a very good argument on both sides. The only thing is that the practical issue that has to be addressed is the portion or designation of the boundaries. That cannot be done like that. That requires...so you would either have to go with the judicial boundaries that are already established, where you get the five (5) districts, the court districts. There are defining lines along the mountain ranges and I know that...

Councilmember Hooser: It has to be one (1) person, one (1) vote. So you have to go through existing representative districts or reapportion yourself.

Council Chair Rapozo: I do not think you could do reapportionment in...so you would just use the three (3)...

Councilmember Hooser: So it would be four (4) to three (3).

Council Chair Rapozo: There you go.

Councilmember Hooser: You still would get four (4) at-large.

Councilmember Yukimura: I want you to think about this now.

Councilmember Hooser: It is not on the agenda.

Councilmember Yukimura: Well, it is the council organization, but when you create districts, then it is sort of like one (1) councilmember who lives in Līhu'e cannot go and work with people in Kekaha because it sort of becomes that councilmember's district and there are all of these protocols and courtesies, which is crazy because we all have people that we work with in all of these districts. You have to be careful when you start setting up these districts and you have to watch the accountabilities because a person will do anything to get the vote of their district.

Councilmember Kualii: Everybody votes.

Councilmember Yukimura: Voter turnout is only fifty percent (50%) so somebody is getting elected only by a few people.

Council Chair Rapozo: Yes. It will make it a lot easier to campaign. That is for sure.

Councilmember Yukimura: Then that person will be the swing vote on an island-wide issue.

Council Chair Rapozo: I think both sides are valid arguments. If I had to vote right now, right here, I would definitely not support the districting, but that is something that the people will vote on and the county attorney is going to come back as far as what happens in that scenario.

Councilmember Yukimura: But in order for people to vote on it, it is the same thing with the council manager. We have to have really extensive community discussions so that people really understand what they are voting for and what the potential consequences might be of their vote.

Council Chair Rapozo: Councilmember Chock, did you raise your hand or did we kind of roll you over?

Councilmember Chock: I was just thinking, so with the two (2) options that we are talking about and the current direction of the Charter Review Commission with the districts, I think that they will both work and to my understanding you would still have two (2) at-large in the current proposal going on the ballot.

Council Chair Rapozo: I am not sure if...maybe this is for the County Attorney, but if in the draft charter amendment resolution or in the draft charter amendment proposal, we would have the two (2) different possibilities

should the districting pass. The only difference would be the makeup of the council and the mayor because we tossed them out if that should pass. I am not sure where we will be at if we have competing amendments, so it is kind of hard to have that discussion because I do not know what happens, but if there is no remedy, I would assume that you...I do not know how you do that if you put the two (2) possible scenarios. It is confusing, but I do not know how to get around it. I guess when the attorneys come back with the opinion we can see.

Councilmember Yukimura: I just want to bring your attention again to this "Code of Ethics and Conduct for Members of the Council." It is part of what Councilmember Chock sent us on January 4th. It says, "Primary focus, both council and its administration, recognized that its allegiance and loyalties are to the town as a whole and not to any individuals or groups." It is just interesting. I know that council-manager systems have districts, but it is real interesting that it says the decision-makers' allegiance has to be the unit of the town and to other groups; smaller groups is a district. It just raises the accountabilities and who you are accountable to. It is just a very major piece that has to be thought about before we go for one (1) system and a new system.

Council Chair Rapozo: Okay. Are there any other major structural changes that we need to address? Peter, can you think of any right now? I think we covered most of the...

Mr. Morimoto: No.

Councilmember Chock: My only request is that in that instance of moving towards the seven (7) member structure, that we do look further into, and I know you sort of asked Councilmember Yukimura to do that, the delineation of duties and responsibilities; that guideline between council and administration. I am looking here and the response here is that the manager would not have any way to censure the council per se, but that the charter should clearly outline and provide an avenue if there was illegal activity or rouge activity that was of a concern.

Council Chair Rapozo: Maybe we can get a charter from one of the agencies that have that in place. Maybe the ICMA can help draft that language.

Councilmember Yukimura: Yes and maybe we ask the question, without a veto power that comes in the strong mayor form of government, what are the checks and balances on a council in the council-manager form of government? Ask them to explicitly point out to us what are those checks that I presume are in there somewhere and it may be that they will come back with roles, censure policies, and things like that. If it is the majority of the council that needs to be checked, you are not going to make the council the decision-making body that checks them, so it may be an ethics board or it may be...I do not know...

Council Chair Rapozo: If it is an ethical issue, regardless if it says one (1), two (2), three (3), or four (4), it is going to the Board of Ethics anyway.

Councilmember Yukimura: Right.

Council Chair Rapozo: I think what you are talking about is if we make a decision or if the majority of the council makes a decision that the public feels was detrimental; not illegal, not unethical, but for instance the council approves a one thousand (1,000) unit hotel right in the corner of Wailua with no traffic infrastructure improvements and so forth. I think that is what I think you are alluding to.

Councilmember Yukimura: Well, that is Nukoli'i.

Council Chair Rapozo: I was not going there, Councilmember Yukimura.

Councilmember Yukimura: It is referendum. That is what happened. There was a referendum to overturn a council decision.

Council Chair Rapozo: Remember now, that exists in the charter. They still have the initiative referendum ability.

Councilmember Yukimura: There may be a way to expand or do something so that it is a good check and that is a tough one, too.

Council Chair Rapozo: It is and I think the public, at the end of the day, is the check against the council. If the council continuously does those kinds of crazy things, then that is where the public has the recall ability. If it is that bad that the majority of the people on the island say those people need to go, then you have the recall process. If it is one special interest group that is upset, but the majority of the public is not, then so be it.

Councilmember Yukimura: That is correct.

Councilmember Chock: It has been less than two percent (2%) that have enacted that recall in the council-manager form of government.

Councilmember Yukimura: That has put in a provision?

Councilmember Chock: No, who have acted on it.

Councilmember Yukimura: Invoked it?

Councilmember Chock: Yes.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Peter?

Mr. Morimoto: There are a couple of structural questions that I have. In Article 7 of the current charter, we have a Boards and Commissions

Administrator and given that that power is going to be given to the manager, do you still want to have a Boards and Commissions Administrator?

Councilmember Yukimura: That is a good question.

Council Chair Rapozo: I think that...

Councilmember Hooser: Not at one hundred thousand dollars (\$100,000) a year.

Council Chair Rapozo: The only change is the appointing authority. I do not know if the county manager is going to have the time to work with all of the commissions. I do not know if the county manager would have that opportunity.

Councilmember Yukimura: The question is whether it needs to be in the charter because it can be created as a...

Council Chair Rapozo: As an ordinance or budget issue.

Councilmember Yukimura: Right.

Council Chair Rapozo: I would agree.

Councilmember Kualii: Empire building by charter.

Council Chair Rapozo: Yes. I do not think that has to be in there.

Councilmember Kualii: Parks & Recreation, Human Resources...

Council Chair Rapozo: Actually, the county manager would put it in the budget.

Councilmember Yukimura: It has been an improvement since we had a Boards and Commissions Office. I remember when the Mayor used to take, and I think I was also guilty of that when I was the mayor, ages to propose boards and commission members. It has really improved. There needs to be a vetting process and somebody actively looking for people who are willing to serve. I think the function is important. The question is whether it needs to be a charter function or not.

Council Chair Rapozo: That would be the same as the Auditor, if you ask me. To me, I believe that the manager should not be tied to having to hire an Auditor if in fact it can be done.

Councilmember Yukimura: Where is the Auditor going to be? The person would be still with the Council, right?

Council Chair Rapozo: Yes. That will not change. Look at the dilemma we are in now. The charter says you have to, but we cannot find one.

Councilmember Yukimura: Councilmember Chock, how many council-manager forms of government have an auditor function in the council? Is it a best practice?

Councilmember Chock: Where the Auditor should sit you mean?

Councilmember Yukimura: Well both, just the existence of it. Until this charter provision was created, we did not have a County Auditor, right? It is best practices to have a County Auditor position? If so, where is it best placed?

Councilmember Hooser: The original purpose of the County Auditor was to do management audits on behalf of the Council because we do not have any involvement in the administrative function, so that was our eyes and ears to see if these departments are being ran properly or can it get better? There was a council representative, so we did not just take the Administration's word that everything is okay, because by charter, we are not allowed to interfere or get involved. So whether they still need that oversight or not, I do not know.

Councilmember Yukimura: Yes. Arguably, because we are so separate now from the administrative function, you would want some way to evaluate. We would do that presumably when we annually evaluate the managing director or the county manager.

Councilmember Hooser: That would be a tangible, politically separate overview of the county manager's performance, so it would give the council cover, if you would, if they want to discipline them, fire or get rid of them, or reward them. So it makes sense to keep, in my opinion, an auditor function.

Council Chair Rapozo: An independent auditor.

Councilmember Hooser: Yes.

Councilmember Yukimura: That is the council's check on the administrative body or branch. What is the check on the council? That is what we are supposed to figure out.

Council Chair Rapozo: We have the Auditor elected. That is how we fix that.

Councilmember Yukimura: Oh, gosh.

Council Chair Rapozo: I am serious. You have the Auditor be accountable to the people and not the Council.

Councilmember Yukimura: As long as only qualified people can run for auditor.

Council Chair Rapozo: My gosh, we let the Mayor's position be the popularity contest. There is no requirement to be the mayor and you control the two hundred million dollar (\$200,000,000) budget.

Councilmember Yukimura: I know.

Council Chair Rapozo: I would assume that we...

Councilmember Yukimura: That is why we are looking at the council-manager form of government.

Council Chair Rapozo: It would be like the Prosecutor. That comment was not directed to the current mayor—how many in the past? The Auditor would be much like the Prosecuting Attorney. They would have to be an Accountant, a Certified Public Accountant (CPA), and would have to have had auditing experience and let the people decide. Look at what we had this year. There is nobody interested. Can you imagine having a blank ballot?

Councilmember Yukimura: It is not that nobody is interested, it is just that the very best and qualified.

Council Chair Rapozo: Okay, so we will leave that audit function as-is, Peter. What else do we have, Peter?

Mr. Morimoto: With a section for a public defender, do you want to retain that?

Council Chair Rapozo: No. What page was that on?

Councilmember Yukimura: Not in our charter is there?

Mr. Morimoto: It is in our current charter.

Council Chair Rapozo: Yes, it is. Did we use to have that before? I guess we must have.

Councilmember Yukimura: What is with the Charter Review Commission? They should have removed that a long time ago. When you do that...

Council Chair Rapozo: Then again, I think we are getting away from the county manager issue.

Councilmember Yukimura: Yes. We agreed not to deal with these kinds of housekeeping items.

Councilmember Kualii: To me, that is the same thing about the Auditor. Like Councilmember Hooser was saying, if you hire the right manager and if the council is behaving the way they are supposed to, you do not need a special performance auditor. You are going to do your regular financial audits and

performance operations is a direct relationship between this body of seven (7) and the manager that we hire and that he or she are doing their job. If they are doing their job and operating the way they are supposed to, what are we auditing as far as performance? If we do, because of citizens' concern over a particular area, we just do a contract. You do not need a whole position. This is the time to revisit the charter and take away all of this...let the citizens, because they are going to be voting on it, but take away all of this built and growth that has cost the County more and more money to do things that we are doing it a different way now. We are being more efficient. We have direct accountability. The county manager is directly accountable to this seven (7) member body and we are directly accountable to the voters. If you want to separate this check and balance thing with the mayor and the voters are electing the mayor separately, then you give the mayor some different power.

Councilmember Yukimura: That is why I asked Councilmember Chock to check in with the council-manager forms of government that have been operating because to have an auditor is a tool by which to evaluate the Administration. We are not going to look through the files and do that kind of thing that an auditor does, so it might be a useful tool for a council that is trying to make sure the administration is working well.

Councilmember Kualii: But a tool is one thing and having it required by charter to hire Ernie Pasion and this whole staff, it is different, like probably millions of dollars different. How did we do it before the charter amendment that created an auditor? There were still audits, right?

Council Chair Rapozo: No, but we had the ability. I did not have the votes. That is the problem. We had four hundred thousand dollars (\$400,000)...

Councilmember Hooser: No, we had the investigation ability, not the auditor ability.

Councilmember Yukimura: Yes, investigation is different from auditing.

Council Chair Rapozo: When I came and took your place when you went off to the bigger thing, I tried to carry that torch that you were carrying about the audits and we had four hundred thousand dollars (\$400,000), but you needed votes.

Councilmember Kualii: Part of that had a political component to it because you had seven (7) people elected here and you had a mayor elected there. This political body is challenging that political body. That political body now goes away. All we have there is a professional manager that is actually hired by us, so that is conflict between one political body and another goes away. It is a whole different kind of system. That is why everybody is arguing that it will be more accountable and efficient. Part of that accountability and efficiency is that we have to go with it, like she was talking about the fidelity or whatever to make the switch to go all the way or do not go at all.

Councilmember Hooser: For me, it comes back to the checks and balances, so the independent auditor is part of the checks and balances. If we get rid of the veto, I think there is more reason to keep the independent auditor because it is an independent voice. Is the council doing its job right with the county manager? No one otherwise is looking if the council is going to be tending itself, but this is an independent auditor, theoretically protected from political influence, and we if we do not have a veto then at least there is somebody there that is relatively protected from political influence, just doing regular performance audits. It is not about catching people; it is about improving performance, or if there is waste/fraud abuse and exposing that.

Council Chair Rapozo: I think we learned a lot about the true audit function in the interview with couple of the candidates or the applicants about how an audit department is supposed to run. I think it was more of a service agency than enforcement.

Mr. Morimoto: I have two (2) more questions.

Council Chair Rapozo: Hang on real quick. Councilmember Chock.

Councilmember Chock: Just the feedback on the auditor, auditors exist in mostly large jurisdictions and there are examples of all kinds of forms like where they sit, mostly independent, and reports to the council.

Council Chair Rapozo: Okay.

Councilmember Yukimura: The difference between having an auditor in the charter that is independent and having us hire an auditor on a case-by-case basis, as needed, is that the independent auditor can be a check on the council, whereas one hired by the council would not necessarily...without the protections that an independent auditor has would not be able to really audit the council as we may need to be at times.

Council Chair Rapozo: I can guarantee that the audits came out of that Auditor's Office would have never occurred if we did not have an Auditor's Office because the Council did not have the (inaudible) to do it.

Councilmember Yukimura: Yes.

Mr. Morimoto: So two (2) more questions that Jenelle has raised: one, is whether you want us to ignore all of the errors and make only those changes that are necessary to change the style of government or do you want us to correct misplaced commas and so on?

Council Chair Rapozo: For the housekeeping issues, as long as the substance is not...

Mr. Morimoto: So non-substantive housekeeping?

Council Chair Rapozo: Yes.

Mr. Morimoto: Okay. The second question is if the Council is not authorized to submit an entirely new charter, do you want us to write it in terms of multiple amendments?

Council Chair Rapozo: Well, whatever the options we have. I am not sure if we can do one (1) charter amendment that would encompass all of the sections because the charter amendment only relates to the change in the structure. In other words, the charter amendment would be one (1) amendment involving multiple sections of the charter. Again, that was Mr. Lewis' interpretation. I am not a lawyer, but I think the way I read it is not that. If you have different sections of the charter that is going to be amended that you have to have a separate amendment for each one. We will wait to see what the attorneys say. For me, if we are not allowed to do a whole new charter, I would hope we could do one (1) amendment, and then we would only address the sections that affect the change in the structure. Councilmember Yukimura.

Councilmember Yukimura: So changing the...

Council Chair Rapozo: Punctuation?

Councilmember Yukimura: Yes.

Council Chair Rapozo: I knew that was bothering you. I could tell.

Councilmember Yukimura: You would just change it where we are changing the sections, right? You will not go through the whole charter and try to make all the typos and everything. You just change it where we are already focusing on the section.

Council Chair Rapozo: I think he asked about...if we came across a typo somewhere, this is an opportunity to fix it.

Councilmember Kualii: So the overall review and making corrections of the charter, that is the job of the Charter Review Commission.

Council Chair Rapozo: Yes.

Councilmember Kualii: So they are probably already doing it.

Council Chair Rapozo: No.

Councilmember Kualii: They are not making comma changes and stuff? I thought I read stuff in the minutes that said they are.

Councilmember Hooser: The thing is that I did have one (1) semester of law school and the placement of commas and apostrophes matter.

Councilmember Kualii: Of course they are.

Councilmember Yukimura: That is substantive though.

Councilmember Hooser: Yes. I am just saying that one person's typo is another person's substance.

Council Chair Rapozo: Okay.

Councilmember Chock: I can also tell you also that the Charter Review Commission, three (3) weeks back, were talking about all of these details.

Councilmember Kualii: Yes, I read it in the minutes.

Councilmember Chock: I am not going to speak for the County Attorney, but his suggestion was to leave it alone.

Council Chair Rapozo: Then we should leave it alone.

Councilmember Chock: I think we have to look further into that. That is just what I heard.

Council Chair Rapozo: Okay. Leave it alone then, Peter.

Councilmember Kualii: Another thing that I will just throw out there since you are talking about commas is that I do hear from citizens from time to time when there is reference to the Mayor and they always use the pronoun "he." I know there has been talk about that in the past to gender neutralize.

Council Chair Rapozo: There is no...how would you do it? "It?"

Councilmember Kualii: "He/she" or "she/he."

Councilmember Yukimura: Or just "mayor" every time.

Councilmember Kualii: Or just "mayor" instead of a pronoun.

Council Chair Rapozo: It is not only the Mayor. Every section has a reference to a position. I have read that "here and after this document that all 'he' referenced should be"—there is a legal preference that you can put in there. I have seen it.

Councilmember Kualii: It is not the same as changing it up.

Council Chair Rapozo: But then that goes to what Councilmember Hooser just said. You are going to do that throughout the whole thing and you cannot change the comma. I do not know.

Councilmember Kualii: If that is your job...

Council Chair Rapozo: No, it is the Charter Review Commission's job.

Councilmember Kualii: That is what I am saying.

Council Chair Rapozo: Yes.

Councilmember Kualii: It happens once every ten (10) years.

Council Chair Rapozo: That is the frustration. If you go through this charter, you get the utility thing and you have issues that should have been cleaned up, but it has not been. That is why I thought this was an opportunity to do it, but I stand corrected, so let us focus on the structural change and hopefully we will deal with that in another Charter Review Commission.

Councilmember Chock: I know we went through this already, but I just confirmed that this is the second time I have confirmed it on the best practice of boards and commissions and they say best practice is elected officials appoint boards and commissions.

Council Chair Rapozo: Elected officials. Okay.

Councilmember Chock: I think it goes against what we talked about where a manager would have that oversight.

Councilmember Kualii: Instead of "appoint and confirm," it would be "recommend and appoint." It is still going to be the same thing, but the authority is different.

Councilmember Chock: That explanation that is said here is that if your boards and commissions are advising the council, then they should be the ones...and even further, he goes into saying if you put on the roles of districts, there are a lot of situations where every district gets certain representation. So the councilmember actually advocates for that district.

Councilmember Kualii: Yes.

Councilmember Yukimura: But advising the council is really different than doing permitting functions and administrative functions. They can be our advisory committees or like I said we could call them "boards and commissions," though we better watch it because you might have two (2) types of administrative boards and commissions and council boards and commissions.

Council Chair Rapozo: I do not think any of the charter commissions are advisory. They are all functioning administrative commissions.

Councilmember Yukimura: I do not know about the Fire.

Council Chair Rapozo: Well, Fire still has that same administrative function of investigating complaints and hiring and firing.

Mr. Morimoto: The model charter calls for the mayor to appoint boards and commissions members.

Council Chair Rapozo: The mayor?

Mr. Morimoto: Yes.

Council Chair Rapozo: I would suggest that we just do the council.

Councilmember Yukimura: Well then the boards and commissions function has to be in the council then to vet all of the...so we are going to...

Council Chair Rapozo: I thought we agreed to remove that from the charter.

Councilmember Yukimura: It is still a function that has to be done, so just logistically speaking you would have to build up an office to do that kind of vetting work. So are you going to have the council appoint the Planning Commissioners as a group? Is that what we are looking at? Are we looking at the council appointing planning commissioners, water board members, and that kind of thing?

Council Chair Rapozo: Yes. I think the way we agreed works, right? If the county manager would recommend or nominate then the council would appoint or confirm.

Mr. Morimoto: The model charter calls for the mayor to appoint with the consent of the council.

Council Chair Rapozo: Go ahead.

Councilmember Kaneshiro: In the model one, is the mayor an active voting participant in the council or is the mayor...

Mr. Morimoto: The mayor is a voting member of the council.

Council Chair Rapozo: I am not sure. I think for today's purpose, we can just leave it the way we had it, and then we will have that discussion. Are there any other structural changes, Peter?

Mr. Morimoto: No.

Council Chair Rapozo: Anymore discussion? I am going to open it up for public testimony. I am going to set the clock today. I want to address the issues that we talked about today, like the main structure. There are a couple of

new people here today, so I want to make sure everybody has an opportunity to speak. With that, anyone wishing to come up? Glenn.

GLENN MICKENS: For the record, Glenn Mickens. I know the public really appreciates the time and effort you folks are putting in for this. I know it is a lot of work and it is not as easy as it sounds. Just a couple of things, the Section 2.02, the composition, you talked about seven (7) members elected at-large and one (1) mayor. I am sure the public does not want that. They want it as-is. Seven (7) members with the mayor to be sitting here. Now whether the mayor happens to be the council chair or whether you are voting for that, I think he has the right. You say that he should automatically be the council chair, but he is going to have the number of votes if he is sitting there. As Chair Rapozo and Carl Imperato has said, the manager style of government to work has to be either a new system manager or the old one or a combination of both. We need accountability and transparency in our government, which we do not have now. That is why we need a manager. For me, the mayor should be an option again as I say. You brought that up on whether he is going to be voting when you put it on the ballot and you say he is going to be automatically the chair. I am not sure of that. That is your option anyway, but I think if you had the right to go ahead and vote who you want as chair, he can be chair or cannot be chair. That is all. When you put this manager style of government on the ballot, it will be imperative, in my estimation, that the wording is right so that the public knows what they are voting for, unlike charter amendment Section 3.07(e), which you remember well, Councilmember Yukimura. It was worded confusingly and I know it gave eight (8) reasons to go into executive session instead of the one we had for (inaudible) the people voted for. The Administration told the Charter Review Commission that the change had to be made to give more secrecy to the government. Again, I think it is extremely important when this goes on the ballot that it be worded so that the public can understand. I know there is going to have to be a lot of education going on, probably ninety percent (90%) of the people you ask regarding the county manger style of government. I do not know, maybe ninety percent (90%) or maybe more. Again, it is going to be up to you, five (5) members, putting it on the ballot so we can get it voted up or down. As far as the veto power, I think Chair Rapozo's solution answered this. The people will be the ultimate veto with their recall and their (inaudible) vote power. They are going to be the ultimate people who decide if you folks are doing your job or whether the manager is doing their job. That is the best part of this system, which if the manager does not do his job, you can fire him. He does not need to sit there for four (4) years and keep on having things go along. He is going to be accountable and the public will see...

Council Chair Rapozo: Those were your three (3) minutes, Glenn.
Anyone else wishing to testify?

JAMES TRUJILLO: James Trujillo for the record. Happy St. Patrick's Day to you all. I really appreciate those who are wearing green. I really appreciate this workshop to flush some of this stuff out and I would just encourage you folks to do this more often, not only on this issue, but on other ones as well. Specifically for the county manager, I would love to see that on the ballot and I think there are a number of good reasons why you folks are looking at some of the

efficiencies that might come about because of the county manager structure. I would love to see the ballot also have a districting question on that and I am glad that you folks are looking at the big picture. To just do one in isolation and as you folks pointed out with the Charter Review Commission also looking at a couple of different ballot questions that there should be some kind of synchronicity and trying to make it less confusing for us easily confused voters. That could happen unintentionally and it quite often does. Whatever does appear on the ballot, I hope it is really clear. Back to the other issue that you folks were talking about and the proponent of districting, I would love to see it be kept simple, three (3) districts, sticking with our elected officials for the state representative, have those be two (2) year terms and have the four (4) remaining, at-large be four (4) year terms with the mayor selected from that group of four (4), being the most popular candidate. Again, it would tie in with the county manager structure that I am in favor for. If we had two (2) year positions at the local district level, you rotate through local people with the (inaudible) four (4) year position of an at-large, and then you have potential for grooming leadership, whether they are going to ascend to the chair or the mayor or whether they want to serve in another body later on that have demonstrated through their community service, then they are worthy for further support. We do have checks and balances. We have the election that happens, given their timeframe, whether it is four (4) years or two (2) years. The people get a chance to say yay or nay and I think that having term limits is a good thing. You folks are already...the clock is ticking. So term limits are one of the things that needs to be looked at in regards to this picture as well. Thank you for having this open discussion in a non-meeting format and doing more workshops of value and benefit. Thank you.

Council Chair Rapozo:
do you want to finish up?

Thank you very much. Anyone else? Glenn,

Mr. Mickens: Thank you. I just want to say how fortunate we people that have been pushing this thing are to have Walter Lewis as our mentor. He has thirty-seven (37) years as a lawyer. He keeps everything in and spends an unbelievable amount of time and effort tracking things, going through the charter, and basically putting the changes that have to be made in these. He has spent so much time. I just have to say that to him. It is too simplistic, but I think his theme was where it says "mayor" in the charter, change that to "manager." I think overall that would be the major thing that has to be...again, for the public to know what is going on. It is going to have to really be simple. You cannot get into all of the details, but I think that this county manager system, again, will give you folks such an option as you have heard the ICMA when they were here testifying and talking about it. You would have so much latitude and to be able to do things the way you want. Again, no power is being taken away from you folks or actually the mayor is the primary person that is not going to have the power that he had before, obviously, but he is going to be sitting here now with you. Councilmember Yukimura was pointing out before that this finger-pointing back and forth is not going to happen anymore because the mayor is here. You are directing that county manager, who again has the ultimate experience to be able to go out and do a job and do it right. The Kilauea Gym would not be sitting for twenty-four (24) years and have a leaking roof on it if the county manager was

sitting here. I guarantee that. Again, I know it is not easy, but I really appreciate all of you doing your homework. Chair Rapozo in particular has had a number of meetings with us and going over these things, so I really appreciate it. Thank you.

Council Chair Rapozo: Thank you, Glenn. With that, I am looking ahead of the calendar and we really do not have days to do a workshop. The 22nd was the day, but we will not be able to do that because of the posting. I think we are...

Councilmember Yukimura: After the budget.

Council Chair Rapozo: I am not sure...when was our deadline again?

Councilmember Hooser: I believe it was July.

Council Chair Rapozo: July? Okay. If you have any comments or concerns, feel free. I am just trying to find a good date in this calendar here. Any comments? We can wrap this up, but I want to make sure that we cover all of the major structural changes. Peter, can we just put one together and have that discussion. Councilmember Yukimura.

Councilmember Yukimura: James' question or comment made me look for the term limitations, but I do not see that. Is it there and I am just missing it?

Council Chair Rapozo: Look at page number 2.

Councilmember Kualii: Section 2.03.

Council Chair Rapozo: Yes. "The staggering of the terms of councilmembers shall commence on December 3, 2018 and be implemented in accordance with this section. Upon certification of the 2018 General Election results, the term of office for the four (4) councilmembers elected with the highest vote totals shall be three (3) years and the term of office for the three (3) councilmembers with the lowest votes shall be two (2) years..." Peter, that should be four (4) years, right?

Mr. Morimoto: Yes.

Council Chair Rapozo: Then the lower three (3) should be three (3) years. "...The term of office for councilmembers elected in all subsequent elections shall be four (4) years." You are talking about term limits. June 15th is the deadline to be on the council agenda. Okay, so you are talking about the term limits, Councilmember Yukimura?

Councilmember Yukimura: Yes.

Council Chair Rapozo: The two (2) four (4) year terms or the removal of the term limits. What did you suggest? That we put in the term limits in there?

Councilmember Yukimura: Well, it is in the charter right now, right?

Council Chair Rapozo: Yes.

Councilmember Yukimura: So...

Council Chair Rapozo: Peter, I think we need to add that as a "C" and put "No councilmember shall serve for more than two (2) consecutive terms" so we maintain that eight (8) year.

Councilmember Yukimura: But some are going to have two (2) year terms?

Council Chair Rapozo: Yes, you are going to just say eight (8) consecutive.

Councilmember Kualii: Or two (2) four (4) year terms...

Council Chair Rapozo: Two (2) four (4) year terms.

Councilmember Yukimura: So somebody is going to have...

Council Chair Rapozo: Somebody is going to have ten (10) years, potentially. They have to get elected. It is not like it is a guarantee. You still have to get elected. If you want to stagger them, you are going to end up with that. Otherwise you are going to shortchange somebody two (2) years. The benefit of coming in last is that you get an extra (2) years. It is what is going to happen. That is what happened with our current mayor of ten (10) years.

Councilmember Kaneshiro: I was reading this through again where it wanted to change the two (2) years to four (4) years, I think that was to accommodate for that first short period, and then it says after that "all subsequent elections shall be four (4) years."

Councilmember Yukimura: Yes, that is why if you apply the interface in with term limits...

Council Chair Rapozo: So the three (3) people that get a two (2) year term will not be counted against their two (2) four (4) year...there is no way of making it...you cannot shortchange the person. Unless someone else has a better suggestion, I am not sure how to deal with that.

Mr. Morimoto: So "C" will be "no person shall"...this is kind of parity to what is currently in the charter: "No person shall be elected to the office of councilmember for more than two (2) consecutive four (4) year terms."

Council Chair Rapozo: Correct. You would also have to put that in the mayor as well. The mayor will not be a problem because he is going to be elected to a four (4) year term.

Councilmember Kualii: Does that invalidate the initial two (2) year term for staggered?

Council Chair Rapozo: Not for the mayor.

Councilmember Kualii: For the councilmembers?

Council Chair Rapozo: Well, we have to fix this “upon certification of 2018, the term of office for the”— you are going to have to put down the four (4) councilmembers elected the highest votes shall be three (3) years...

Councilmember Kualii: Four (4) years.

Mr. Morimoto: That should be four (4) years.

Council Chair Rapozo: Yes, and the remaining...we are going to have to split that up, probably three (3) and three (3), right? Then the mayor will be straight into a four (4) year.

Councilmember Yukimura: You are trying to put this together with districting and it will be totally nuts.

Council Chair Rapozo: That is why we are not addressing the districting issue right now. We have to figure out a way of how we are going to...it would be no different. You would still end up with six (6) or seven (7) councilmembers from different districts. At the end of the day, you are still dealing with the same number of seven (7), so that would not affect it.

Mr. Morimoto: Do you want the language to be consistent? When you look at the charter, the provision for mayor reads, “No person shall serve as mayor for more than two (2) consecutive full terms.” Do you want the language for the councilmember to read the same?

Council Chair Rapozo: I think I would prefer the two (2) four (4) year...it says “full terms” for the mayor?

Mr. Morimoto: Yes.

Council Chair Rapozo: The two (2) year is still a full term. So I would say four (4) years so that it is very clear that it is a four (4) year term. For the full term, one could say that the two (2) year term is a full term. This is just a two (2) year full term. Peter, there was one more, Section 6.04, and I do not know if we would be able to do this because of the concern about the typos, but this would be page number...powers and duties of the county manager...actually, this we could

fix because...page number 14...all of the sections in the charter are listed alphabetically, the paragraph, and this one is numbers. That is the only thing that I noticed.

Mr. Morimoto: This language came from the model charter.

Council Chair Rapozo: Okay.

Mr. Morimoto: Do you want me to try to match up the powers of the mayor with the powers of the manager?

Council Chair Rapozo: I do not think so. I think this is sufficient. Just that if you could change it from numbers to letters so that it is consistent with the rest of it. That is kind of all I have for today. June 15th is the last day we can actually introduce it on to the agenda. I am looking at...we are in budget all the way through April 19th. I am confident that Councilmember Kaneshiro is going to run it like he did the last time so we will not have any call-backs, but obviously, we have to allow for that, so the 22nd would be the first available Friday...I mean it is a Friday in April that we could have what I will call the final workshop. Does anybody have a problem with the 22nd?

Councilmember Hooser: The 22nd?

Council Chair Rapozo: The 22nd of April.

Councilmember Yukimura: I am okay.

Council Chair Rapozo: Are we good? Okay, it sounds like it for all of us. Let us go with the 22nd, Scott. Is that okay? Let us start it at 10:00 a.m.

Councilmember Kaneshiro: That is Earth Day.

Council Chair Rapozo: Earth Day?

Councilmember Kaneshiro: Yes.

Council Chair Rapozo: We cannot do it on Earth Day. Just kidding. Okay, Earth Day, the 22nd at 10:00 a.m.

Councilmember Kualii: Peter is raising his hand.

Council Chair Rapozo: I am sorry, Peter.

Mr. Morimoto: One last issue, with regard to the manager's term, did you want it to remain as-is with "indefinite term?"

Council Chair Rapozo: Was that in the model charter?

Mr. Morimoto: Yes.

Council Chair Rapozo: Really? Okay. Our resident expert is going to check it out. He is going to work on the requirements and qualifications. I am uncomfortable with "indefinite term."

Councilmember Chock: What version is that? Is that the latest one?

Mr. Morimoto: It is the eighth edition.

Councilmember Chock: Let me double-check on that. I thought it was ten (10) years.

Council Chair Rapozo: I am sure no one is comfortable with "indefinite term." No one gets an indefinite term.

Councilmember Yukimura: I want to know what the best practice is.

Councilmember Kaneshiro: How long is Jade's term?

Council Chair Rapozo: Jade goes with the term of the council.

Councilmember Kaneshiro: Okay.

Council Chair Rapozo: You would never get a county manager to come in for two (2) years or four (4) years. The Auditor is six (6). I do not know. Maybe that is the best practice.

Councilmember Kualii: I would imagine that they are realist, too, as far as knowing that body is political and that there is an election every two (2) years. It does not really matter what you say the term is. If there is a big election and the council turns over drastically, they may choose to hire a new county manager.

Councilmember Kaneshiro: Our County Attorney is the approval...

Council Chair Rapozo: With the mayor. His term is with the mayor.

Councilmember Kaneshiro: Okay.

Councilmember Hooser: If it has a finite term then they have to reapply basically, so you do not have to fire anyone. So whether it is four (4) years or six (6) years or something besides indefinite.

Council Chair Rapozo: It would be like the County Attorney. The mayor just rolls him over to his next term. They do not fire. I mean we do have to reconfirm.

Councilmember Hooser: Right, but at least there is some process. They are not just automatic.

Council Chair Rapozo: That is where I think the indefinite probably is best practice because...

Councilmember Kualii: Because it is not spelt out.

Council Chair Rapozo: Yes and there is some stability when they are going to apply and they know that at any time with the supermajority of the council, they are done.

Councilmember Kualii: Or with a bad decision.

Council Chair Rapozo: Yes. We can leave it that way for now and Councilmember Chock can...I can see that being the best practice really.

Councilmember Chock: I kind of remember reading that. My presentation is gone. I do not know what happened to it.

Council Chair Rapozo: Their term ends when the council says they are done.

Councilmember Chock: I have to look for the hardcopy.

Council Chair Rapozo: I think that is why they perform so well because they do not want to get fired. Councilmember Yukimura.

Councilmember Yukimura: So on page number 10, Section 3.03 seems off, "submission of ordinances to the mayor." Or that assumes a veto power...all the old...is that from the model code?

Mr. Morimoto: No, this is from our current charter when I presumed given that there was going to be a mayor with veto power, so now that that is no longer the case...

Council Chair Rapozo: That would have to come out.

Councilmember Yukimura: Yes, so what the process is the Managing Director presents the budget to the Council and interestingly, it would just be one budget. It is not a supplemental budget. Is it? What is the best practice in council-manager forms of government? Then the council approves it and that is it.

Council Chair Rapozo: Correct.

Councilmember Yukimura: Unless we put in a veto power somewhere, but presumably if it is a seven (7) person council and everybody votes, should the budget be approved by a supermajority? It is not that simple. Please tell Mr. Lewis. There are so many details.

Council Chair Rapozo: I think the county manager would submit his budget to the council and the council would vet it out like we normally do and he would end up with a budget that the council approves or she.

Councilmember Yukimura: Right, so is there a supplemental budget?
No.

Council Chair Rapozo: No. I do not know how many of you know of any other jurisdiction that the mayor has two (2) bites of that.

Councilmember Yukimura: Well, I had a charter amendment proposing to remove it. It went on the ballot and it was misinterpreted by the voters.

Council Chair Rapozo: Yes, because they did not understand it.

Councilmember Yukimura: Well, the text was not even accurate.

Council Chair Rapozo: Yes. I do not know really. Everybody that I talk is real surprised that we get this supplemental...because it is a strategy.

Councilmember Yukimura: It is.

Council Chair Rapozo: You throw the line out, you get your little taste from the council on how they feel, and then...

Councilmember Yukimura: And then you throw it back at the council and they have three (3) days to figure out all the changes, and then...

Council Chair Rapozo: And then a public hearing after.

Councilmember Yukimura: Yes.

Council Chair Rapozo: Only on Kaua'i.

Councilmember Yukimura: It is a very funny budget process.

Council Chair Rapozo: I would suggest that we...this is an opportunity to fix that. The county manager submits the budget and the council vets it out and he gets the budget that he gets and he needs to adjust. That is in here, right?

Mr. Morimoto: Yes...

Councilmember Yukimura: I think we might need a five (5) person approval.

Mr. Morimoto: The budget process is basically lifted from the current charter. The model charter does have a budget process.

Councilmember Yukimura: Well, we should look at it.

Council Chair Rapozo: I do not know who does that.

Councilmember Yukimura: I do not know where that came from. It is very...

Council Chair Rapozo: It is probably from the Kunimura days.

Councilmember Yukimura: It is very unfair to the Council.

Council Chair Rapozo: Peter, can you review the budget process? Just one submittal. Councilmember Hooser, you made Jay's day. I saw you turn "red as a beet."

Councilmember Hooser: I noticed that nobody was laughing.

Councilmember Yukimura: What did you say? I did not hear it.

Councilmember Hooser: My comment was about that position. I said, "We do not need to pay him one hundred thousand dollars (\$100,000) a year."

Council Chair Rapozo: I will say that I looked straight at him and he was laughing. He was actually chuckling.

Councilmember Hooser: I chose not to turn around and look at him. When I was looking at you, I realized.

Council Chair Rapozo: Then you started laughing.

Councilmember Hooser: Yes. It is part of the public record. I do not mind that.

Council Chair Rapozo: It is the truth.

Councilmember Kualii: I am glad you said it and not me.

Council Chair Rapozo: Anyway, April 22nd. If you folks have any concerns, changes, or whatever, just let Peter know and Peter can put together an options list or choice list that we can all discuss on the 22nd. At the 22nd workshop, I am hoping that we will have enough information to put that resolution together and that one will be televised and all of that.

Councilmember Kualii: I will just throw something else out there.

Council Chair Rapozo: Yes, why not?

Councilmember Kualii: If we do have any kind of veto, I think it is important that be in the hands of somebody that is elected by the people. An

auditor that is just hired by the council should not have any kind of veto, but a mayor that is elected separately, not as one of the other six (6) councilmembers could technically, even as part of the seven (7) have a veto, because he or she could participate in everyday discussions and all votes and whatever and he or she could be part of a losing vote of 3:4 or 4:3, and then he could veto it to require to get five (5) votes to make a stronger decision on behalf of the people. That would have to be spelt out. We would still only have seven (7) people as opposed to eight (8). But in that instance, I would say, too, that the mayor that is elected by the people, unlike the other councilmembers, has a veto power should not automatically be the chair. The seven (7) member body should still elect the chair. It could be the mayor or it could be any of the other six (6) as well. I think the functioning of the seven (7) member body would be better if this seven (7) member body picks the chair and not the voters. The voters should pick the mayor, but the mayor maybe should not automatically be the chair. Maybe the mayor should just deal with policy and have the veto...that would probably be very rarely used.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: So three (3) things I have concerns about: one is the minutes. We are having minutes of this meeting taken and we approve them at council meetings. Is that what we have been doing?

Council Chair Rapozo: Yes. Well, at some point it will. When does it show up for approval of the minutes? At the full council. Okay.

Councilmember Yukimura:

So have we been approving them already?

SCOTT K. SATO, Deputy County Clerk: We are not at the point to put it on. It is still in review.

Councilmember Yukimura: Okay. I just wanted to know what the process was. For televising, I think people need to be part...I would like to have the next meeting televised because these in-depth discussions will give people...that is why I am sorry that Councilmember Kagawa is not here to hear the issues. They are not easy issues and if people just hear the result, they do not have an understanding of some of the complexities.

Councilmember Kualii:

At the next meeting, we will have a draft proposal.

Council Chair Rapozo:

Next meeting with the draft proposal, I do not have a problem with the cameras being here. I just wanted to keep this as informal because I wanted the public's participation where they could be very informal.

Councilmember Yukimura: Okay. The other thing is that I really feel like this is rushing it and to put it on the ballot for this year with everything else happening does not allow full discussion of it. I would rather have a special election next year when it is the only thing for discussion.

Council Chair Rapozo: Well, I guess you will not be co-introducing with me.

Councilmember Yukimura: No, it is like working on amendments. I work on it as best as I can. I am just expressing my concerns.

Council Chair Rapozo: Everyone has said that if we are not ready, then we are not ready. If the time comes and we have to vote on the resolution and we are not ready and we do not feel we have covered the entire basis, then I will be the first one to vote no. I think we can get as much as we can get done at least and if we are not ready, then we are not ready. I think a lot of eyes have to look through this draft and there are a lot of changes that we have to make sure that we are all in sync with all the different sections. Councilmember Chock.

Councilmember Chock: I was just reading this article on El Paso when they made the change in 2004 and one of the suggestions that they had was to actually have a municipal attorney who understands and is familiar with the council-manager form of government over the charter. I just wanted to...that might be something that we need to discuss in the future. I have confidence in Peter, but we do not know what we do not know is kind of the question that we have been posing, so I do not know if that is going to cost any money.

Councilmember Yukimura: It would be worth the money because otherwise you have a lot of lawsuits.

Councilmember Chock: Right, just something to consider.

Council Chair Rapozo: I would assume that the ICMA will assist us with that, even if we have to pay ICMA. It is better than paying five hundred dollars (\$500) an hour for an attorney in Honolulu.

Councilmember Chock: Yes, I have put in the request.

Councilmember Kaneshiro: We still need to get the information back from the County Attorney's Office as we asked a bunch of questions.

Council Chair Rapozo: Yes, he asked for a week...I believe it was a week, Peter. He just sent me the request that he just cannot get it done.

Councilmember Kaneshiro: It was a lot of questions.

Council Chair Rapozo: We will have it by April 22nd.

Councilmember Kualii: It is a little more work, but when we have an actual proposal, that it be more than just text that it have some kind of summary sheet or some kind of diagram that shows it. They have all sort of been done in many ways as far as the advisory group, things like once you have a form that you

are actually proposing, that it actually shows it. This is a form that says the voters select six (6) councilmembers and one (1) mayor.

Council Chair Rapozo: Okay.

Councilmember Kualii: But if there is eight (8) big decisions, instead of us digging for it all in here, that it be on a summary sheet.

Council Chair Rapozo: Okay.

Councilmember Kualii: Because that is kind of like the foundation of everything else. The minutia of all the little language corrections that have to be made is not necessarily part of the big decisions. The big decisions are all what we have kind of been doing.

Council Chair Rapozo: Yes.

Councilmember Kualii: So put it in the proposal so that we look right at that and figure out if there are five (5) votes, et cetera.

Council Chair Rapozo: I will work with Peter and Scott before the 22nd and we can put up some PowerPoints that will show the major components of the change. That would be good and the cameras and the public will get to see it.

Councilmember Chock: Lastly, I know we talked about HRS...we probably need to really get that question out of the way. If not, then we are pretty much...

Councilmember Yukimura: Peter, you gave me a list of all of the HRS sections that are affected.

Mr. Morimoto: All councilmembers got it.

Councilmember Yukimura: Okay.

Councilmember Chock: Yes, we got it. It was part of the presentation.

Councilmember Yukimura: Okay, but we would expect the attorney to go over it and let us know...

Mr. Morimoto: We received a memorandum from the County Attorney regarding those provisions.

Councilmember Yukimura: And what did the memorandum say?

Mr. Morimoto: It is something that should not be discussed in open session.

Councilmember Yukimura: Well then we better schedule an executive session parallel with the 22nd so if we need that forum or venue, we have...

Council Chair Rapozo: We will probably do it before the 22nd. You can schedule an executive session on the council meeting prior to the 22nd so we can address those issues. Does it prevent us from moving forward? I did not read it. I apologize and if I did, I do not remember. There are some concerns.

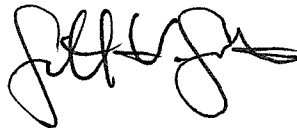
Mr. Morimoto: Let us talk about it afterwards.

Council Chair Rapozo: Okay. Are there any other issues before we adjourn today's workshop? If not, thank you all for being here today. Happy Birthday to Councilmember Kualii. We will be back at 3:30 p.m. for the Executive Session item.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 1:02 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott K. Sato', with a stylized flourish at the end.

SCOTT K. SATO
Deputy County Clerk

:cy